

*Testimony of*  
*City of Detroit Lansing Lobbyist Kenneth Cole*  
*Before The*  
*MI House Intergovernmental and Regional Affairs Committee*

*May 18, 2010 / 11:30 a.m. / Room 327 House Office Building / Lansing, MI 48933*

Chairwoman Donigan and distinguished members of the House Intergovernmental and Regional Affairs Committee ... On behalf of Detroit Mayor Dave Bing and the honorable Detroit City Council, good afternoon and thank you for affording me an opportunity to engage you on House Bills 5731, 5732 and 5733 – legislation to create a Regional Transit Authority in the Detroit metropolitan area.

My name is Kenneth Cole. I am Sr. Vice President of Governmental Consultant Services Inc. and the City of Detroit's lead lobbyist in Lansing. I know time is of the essence, so I will get right to my brief testimony.

I would be remiss, however, if I did not take a moment to commend Representatives Bert Johnson, John Switalski and you, Chairwoman Donigan, for attempting to tackle the weighty issue of regional transit. Please know that the City of Detroit sincerely respects your diligence, even as it continues to have concerns about the timing and thrust of these bills.

**QUESTIONABLE TIMING / THE POTENTIAL TO CONFUSE**

Permit me to address the matter of timing first.

As you no doubt already know, the City of Detroit desires a local light rail system on Woodward Avenue from 8 Mile Road to Jefferson Avenue downtown and has petitioned the Federal Transit Administration for financial support under the so-called New Starts Program.

Progress is being made on this endeavor. Indeed, the City of Detroit recently assumed control of a \$25 million federal TIGER grant for the first phase of this project, from Jefferson Avenue to Grand Boulevard.

Notwithstanding the latter, though, city leadership remains concerned that moving House Bills 5731, 5732 and 5733 right now has the potential to hurt the City of Detroit's federal New Starts application.

That is because the new Regional Transit Authority that the package seeks to create would, among other things, "become the designated recipient ...for federal and state transportation operating and capital assistance grants."

As we noted in March when this package first came up for hearing, it takes at least a year to become a "designated" grant recipient at the federal level. Thus, if the Legislature creates this new Authority and responsibility for Detroit's proposed local light rail system is transferred to it, the project loses another year's worth of time, minimally.

Furthermore, there already exists in Southeast Michigan an entity that serves as the designated recipient for federal and state transportation resources – the Regional Transit Coordinating Council, or RTCC.

Respectfully ... again ... the City of Detroit asks that the Legislature not pass any bills that could jeopardize the Woodward light rail project.

### **NO IDENTIFIABLE FUNDING SOURCE**

Content-wise, the substitute bills remain deficient, too. For example, the package prescribes no true source of funding for the would-be Authority but, rather, seeks to give it permission to levy a tax. (*See Section 10 on Page 17 of House Bill 5731*)

But affording the Authority the power to tax in today's economic climate is, again, dubious, perhaps even duplicitous.

To better understand this point, consider that the Michigan Legislature, generally speaking, has opposed efforts to raise taxes, choosing instead to impose deep cuts in a multitude of programs. Indeed, the Michigan Senate this week is poised to pass the General Government budget, House Bill 5880, with a 5 percent cut in statutory revenue sharing that will cost the City of Detroit about \$12 million.

*This, after the Legislature imposed a near \$30 million cut in revenue sharing on the City of Detroit for the current 2010 fiscal year!*

At minimum, the City of Detroit asks the Legislature to disallow this would-be Regional Transit Authority to operate until a dependable statewide or regional funding source has been identified *and* effectuated. Please know that, absent such an identifiable source of funding, it is unlikely the FTA will recognize this would-be Authority as a designated grant recipient because the entity would have no funding history ... no staff ... and no records to audit to determine its viability.

### **GOVERNANCE**

The governance structure prescribed by this legislation also gives the City of Detroit pause for concern.

Specifically, the package calls for the would-be Authority to be directed and governed by a board of directors that initially would comprise one appointment each from the Governor, the Mayor of the City of Detroit, the Wayne County Executive, the Oakland County Executive and the chairperson of the Macomb County Board of Commissioners. It also allows the Authority governing board to adopt bylaws that require a 4/5 vote of serving members on certain action.

This is in stark contrast to the statute prescribing the aforementioned RTCC, which states: *"The Council shall act by a unanimous vote of its membership ..."*

Again, it's important to note, too, that the RTCC model was used as a template for Southeast Michigan's most recent foray into regional governance – that being the law creating an Authority to manage Cobo Convention Center.

Section 11 of the Regional Convention Facility Authority Act – *now Public Act 554 of 2008* – expressly states: *"All actions of the board under this act shall require the unanimous consent of all serving members ..."*

Which begs the question: If unanimity on board action is good enough for the above-mentioned regional entities, why is it not for the Authority this package seeks to create?

### **CONSTITUTIONALITY / HOME RULE**

The City of Detroit also is concerned this legislation may infringe on home rule.

Specifically, House Bill 5731, in Section 9, calls for “*whole or partial transfer of operational jurisdiction, management, control, ownership or other interest in ... a public transit system owned or operated by (Detroit), ... notwithstanding any provisions to the contrary ... set forth by law, ordinance or charter.*”

Respectfully, the City of Detroit is a Home Rule City.

It has a Home Rule Charter.

And it values the time-honored tradition of local control.

### **MISCELLANEOUS**

To be sure, there are other provisions in this package that trouble the city, such as (1) the new language pertaining to collective bargaining on Page 21 of House Bill 5721 ... (2) what it portends for the division of resources between DDOT and SMART ... and (3) the seemingly counterintuitive inclusion of “*PRIVATELY OWNED* bus, railroad car, (etc.)” in the definition of “*PUBLIC transit*” in House Bill 5731.

We do not, however, wish to belabor the point, which is: The City of Detroit enthusiastically supports the concept of a Regional Transit Authority but believes such an undertaking still merits additional thought and consideration.

Again, on behalf of City of Detroit Mayor Dave Bing and the honorable Detroit City Council, thank you for your time and consideration of my remarks on this legislation.